

**STATE OF CALIFORNIA  
DEPARTMENT OF INSURANCE  
45 Fremont Street, 21st Floor  
San Francisco, California 94105**

**DATE May 8, 2002**

**RH02021588**

**NOTICE OF PROPOSED REGULATORY ACTION AND  
NOTICE OF PUBLIC HEARING**

**Credit Property Insurance and Credit Unemployment Insurance**

**SUBJECT OF HEARING**

A public hearing will be initiated regarding the proposed adoption of regulations which specify prima facie rates for credit property insurance, joint credit property insurance, credit unemployment insurance, and joint credit unemployment insurance.

**AUTHORITY AND REFERENCE**

The Insurance Commissioner proposes the adoption of Title 10, Chapter 5, Subchapter 4.10, Article 1 through Article 8, Sections 2670.1 through 2670.27, pursuant to the authority vested in him by Sections 779.21, 779.36, 12921 and 12926 of the California Insurance Code, *Credit Insurance General Agents Association v. Payne*, 16 Cal.3d 651 (1976), and *20<sup>th</sup> Century v. Garamendi*, 8 Cal.4<sup>th</sup> 216 (1994). The purpose of these regulations is to implement, interpret, and make specific provisions of the California Insurance Code, including but not limited to, Section 779.36.

**HEARING DATE AND LOCATION**

The Insurance Commissioner will hold a public hearing to permit all interested persons the opportunity to present statements or arguments, orally or in writing, with respect to the proposed regulations at the date, time, and place set forth below:

|                       |   |
|-----------------------|---|
| <b>Date and time:</b> | <b>July 12, 2002<br/>10:00 a.m.*</b>  |
| <b>Location:</b>      | <b>45 Fremont Street<br/>22<sup>nd</sup> Floor Hearing Room<br/>San Francisco, CA 94105</b> |

\*The hearing will continue on the date noted until all testimony has been completed or 4:30 p.m., whichever is earlier.

## **WRITTEN AND/OR ORAL COMMENTS; AGENCY CONTACT PERSON**

All persons are invited to present oral/and or written comments at the scheduled hearing. Written comments not presented at the hearing must be addressed to the following contact person:

California Department of Insurance  
Attention: Donald Hilla,  
45 Fremont Street, 21st Floor  
San Francisco, CA 94105  
FAX (415) 904-5490  
hillad@insurance.ca.gov

Questions regarding the hearing, comments, or the substance of the proposed action should be addressed to the above contact person. If the contact person is not available inquiries may be sent to the backup contact person:

California Department of Insurance  
Attention: Michael Riordan  
45 Fremont Street, 21<sup>st</sup> Floor  
San Francisco, CA 94105  
FAX: (415) 904-5490  
riordanm@insurance.ca.gov

## **DEADLINE FOR WRITTEN COMMENTS**

Any interested party may submit to the Commissioner written comments relevant to the proposed regulations. All written materials unless submitted at the hearing, must be received by the contact person at the address listed above, by no later than 5:00p.m., July 8, 2002. Any comments received after that time will not be considered.

## **COMMENTS TRANSMITTED BY ELECTRONIC COMMUNICATION**

The Commissioner will accept written comments transmitted by e-mail, provided they are sent to the following e-mail address: hillad@insuarnce.ca.gov. The Commissioner will accept written comments transmitted by facsimile to the following facsimile number: (415) 904-5490. **Comments sent to other e-mail addresses or by facsimile machine will not be accepted. Comments sent by e-mail or facsimile are subject to the deadline for written comments set forth.**

## **ACCESS TO HEARING ROOM**

The public hearing rooms are accessible to persons with mobility impairments. Persons with sight or hearing impairments are requested to notify the agency representative (listed above) for the hearings in order to make special arrangements, if necessary.

## **ADVOCACY OR WITNESS FEES**

Persons or groups representing the interests of consumers may be entitled to reasonable advocacy fees, witness fees, and other reasonable expenses, in accordance with the provisions of Title 10 of the California Code of Regulations in connection with their participation in this matter. Interested persons should contact the Office of the Public Advisor at the following address in order to inquire about the appropriate procedures:

Office of the Public Advisor  
California Department of Insurance  
300 Capitol Mall, 17<sup>th</sup> Floor  
Sacramento, CA 95814  
(916) 492-3559

A copy of any written material submitted to the Public Advisor regarding this rulemaking must also be submitted to the agency contact person listed above. Please contact the Office of the Public Advisor for further information.

## **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Existing law governing credit property insurance and credit unemployment insurance rates is set forth in Insurance Code §779.36 and Proposition 103 (Insurance Code §§1861.01 et seq.). The provisions of Proposition 103 apply prior approval rate regulation to these lines of insurance, and the provisions of §779.36, as amended by Statutes of 1999, Chapter 413 (AB 1456), §1, contain requirements specifically for credit property insurance, joint credit property insurance, credit unemployment insurance, and joint credit unemployment insurance. (Hereafter both credit property insurance and joint credit property insurance are included in references to “credit property insurance,” and both credit unemployment insurance and joint credit unemployment insurance are included in references to “credit unemployment insurance.”)

Originally Insurance Code §779.36 governed only credit life insurance and credit disability insurance. In 1999 the Legislature amended to statute, largely in response to a March 1999 report by Consumers Union and the Center for Economic Justice titled “Credit Insurance: The \$2 Billion A Year Rip-Off,” subtitled “Ineffective Regulation Fails to Protect Consumers” (the “Report”). The Report describes how a marketing system of “reverse competition” generates high rates for credit property insurance and credit unemployment insurance relative to the benefit provided by the coverages. The Report also detailed numerous objectionable practices by the credit insurance industry in selling these coverages and resolving claims. In response, the Legislature amended §779.36 to add rate control provisions for credit property insurance and credit unemployment insurance (as well as credit life and disability insurance).

Although regulations exist which implement the prior approval provisions of Proposition 103, there are no regulations which implement the provisions of Insurance Code §779.36 which govern credit property insurance and credit unemployment insurance. Insurance Code §779.36 as amended requires the Commissioner to adopt regulations “that become

effective no later than January 1, 2001, specifying prima facie rates based upon presumptive loss ratios, with rates which would be expected to result in a target loss ratio of 60 percent, or any other loss ratio as may be dictated after applying the factors contained in this subdivision, for each class of ...credit unemployment [and] credit property...insurance.” The statute also includes “joint credit property insurance” and “joint credit unemployment insurance” within its rate control provisions. Section 779.36 requires the Commissioner to make the insurers’ actual annual loss ratios available to the public each year.

The Commissioner proposes the adoption of Title 10, Chapter 5, Subchapter 4.10, Article 1 through Article 8, §§2670.1 through 2670.24 on a permanent basis. The purpose of the regulations is to implement, interpret and make specific provisions of the California Insurance Code, including but not limited to, §779.36. The regulations establish prima facie rates for credit property insurance, joint credit property insurance, credit unemployment insurance, and joint credit unemployment insurance as required by California Insurance Code §779.36. The regulations also require insurers to report actual annual loss ratio data to the Department of Insurance so that the Commissioner can make this information available to the public.

This rulemaking action pertains only to the fixing of “rates, prices or tariffs.” Under Govt. Code Sec. 11343(a)(1) it is exempt from Office of Administrative Law approval.

## **PLAIN ENGLISH OVERVIEW**

The proposed regulations contain the following provisions:

### **Article 1. Scope.**

#### **Section 2670.1. Authority.**

Existing regulations do not set forth the legal authority for regulations which implement Insurance Code §779.36. This section sets forth the legal authority for the regulations.

#### **Section 2670.2. Purpose.**

Existing law does not set forth the purpose of regulations promulgated to effectuate Insurance Code §779.36. This section states that the purpose of the regulations is to implement the provisions of Insurance Code Section 779.36 which apply to credit property insurance, joint credit property insurance, credit unemployment insurance, and joint credit unemployment insurance.

#### **Section 2670.3. Applicability.**

Existing law does not set forth the applicability of regulations promulgated to effectuate Insurance Code §779.36. This section states that the proposed regulations apply to all

credit property insurance, joint credit property insurance, credit unemployment insurance, and joint credit unemployment insurance on risks or on operations in California.

## **Article 2. Definitions.**

### **Section 2670.4. Definitions Applicable to this Subchapter.**

- (a) Existing law does not define “credit property insurance” as that term is used in the regulations. This section defines “credit property insurance” as it is used in the regulations.
- (b) Existing law does not define “joint credit property insurance” as that term is used in the regulations. This section defines “joint credit property insurance” as it is used in the regulations.
- (c) Existing law does not define “credit unemployment insurance” as that term is used in the regulations. This section defines “credit unemployment insurance” as it is used in the regulations.
- (d) Existing law does not define “joint credit unemployment insurance” as that term is used in the regulations. This section defines “joint credit unemployment insurance” as it is used in the regulations.
- (e) Existing law does not define “closed end” plan of indebtedness as that term is used in the regulations. This section defines “closed end” plan of indebtedness as it is used in the regulations.
- (f) Existing law does not define “earned premium” as that term is used in the regulations. This section defines “earned premium” as it is used in the regulations.
- (g) Existing law does not define “experience group” as that term is used in the regulations. This section defines “experience group” as it is used in the regulations.
- (h) Existing law does not define “experience period” as that term is used in the regulations. This section defines “experience period” as it is used in the regulations.
- (i) Existing law does not define “reported claim count” as that term is used in the regulations. This section defines “reported claim count” as it is used in the regulations.
- (j) Existing law does not define “open end” plan of indebtedness as that term is used in the regulations. This section defines “open end” plan of indebtedness as it is used in the regulations.
- (k) Existing law does not define “prima facie rate” as that term is used in the regulations. This section defines “prima facie rate” as it is used in the regulations.

### **Article 3. Regulation of Rates.**

#### **Section 2670.5. Presumptive Loss Ratios and Prima Facie Rates, Generally.**

Existing law (Insurance Code §779.36) requires the Commissioner to adopt regulations which specify prima facie rates for credit property insurance and credit unemployment insurance based on presumptive loss ratios, with a target loss ratio of 60% or any other loss ratio as may be dictated after applying certain factors listed in the section. This section states that the presumptive loss ratio for credit property insurance and credit unemployment insurance shall be 60%. The section sets forth the method of calculating the loss ratio, and states when a rate shall be presumed excessive under Insurance Code §1861.05. The section explains that the regulations contain prima facie rates based on benchmark programs set forth in the regulations. The section specifies when an insurer may use a program which is different from a benchmark program.

#### **Section 2670.6. Prima Facie Rates for Benchmark Programs.**

Existing law does not specify the prima facie rates required by Insurance Code §779.36. This section specifies the prima facie rates for the benchmark programs set forth in the proposed regulations.

#### **Section 2670.7. Calculation of the Maximum Permitted Premium.**

Existing law does not specify how rates for credit property insurance and credit unemployment insurance shall be calculated under the rate regulation requirements of Insurance Code §779.36. This section specifies how rates shall be calculated.

#### **Section 2670.8. Rate Changes.**

Existing law does not specify the manner in which insurers are to make rate changes in order to comply with the requirements of Insurance Code §779.36. This section tells insurers under what circumstances they must file a proposed rate decrease, and under what circumstances they must file a proposed rate increase. The section states that a proposed rate may not exceed the maximum permitted premium. However, the Commissioner may approve a rate higher than the maximum permitted premium if a lower rate provides inadequate allowances for the factors set forth in Insurance Code §779.36. The Commissioner shall disapprove a rate if the insurer does not demonstrate that the rate has been determined in accordance with the law.

The section specifies the time frames within which rate decreases and rate increases shall become effective. It restricts the ability of an insurer to raise rates when assuming business or when transferring a creditor or creditor group to another experience group. The section allows the Commissioner to consider proposals for rates in excess of the maximum permitted premium rates for specific creditors, creditor groups, or products if it

is demonstrated that the maximum permitted premium rates provide inadequate allowances for the factors listed in Insurance Code §779.36.

#### **Section 2670.9. Table.**

Existing law does not explain how to determine the credibility factor to be used in calculating credit property insurance rates or credit unemployment insurance rates. This section sets forth a table and instructions by which that can be done.

#### **Section 2670.10. Certificate of Insurance; Filing Requirements.**

The Insurance Code does not expressly state that certificates of insurance (which are issued to the certificate holder, i.e., the consumer) for credit property insurance or credit unemployment insurance must set forth all applicable coverages, exclusions, and limits of liability. In addition, the Insurance Code does not expressly state that the coverages, exclusions, and limits of liability in a master policy which pertain to certificates of insurance issued under the master policy must match the coverages, exclusions, and limits of liability set forth in a certificate of insurance issued under the master policy. This section requires that all applicable coverages, exclusions, and limits of liability must be set forth in each certificate of insurance, and requires that these provisions be consistent with the coverages, exclusions, and limits of liability contained in the master policy under which the certificate is issued. This section also provides that every rate filing subject to the regulations shall include copies of the certificate of insurance and master policy used in the program for which the rate filing is made.

#### **Section 2670.11. Cancellation of Coverage and Return Premium.**

The Insurance Code contains no provisions which specify the method by which return premium should be calculated when a certificate holder cancels a policy of credit unemployment insurance or a policy of credit property insurance other than single interest credit property insurance coverage on a closed end plan of indebtedness. This section provides that in the event the certificate holder cancels coverage of a policy covered by the section, any return premium shall be computed on a prorata basis if the premium is paid monthly, and by the Rule of 78's if the premium is paid annually and the coverage provided pays off the entire balance of the certificate holder's indebtedness.

### **Article 4. Benchmark Programs for Credit Property Insurance.**

#### **Section 2670.12. Benchmark Number One: Provisions for Dual Interest Credit Property Insurance on an Open End Plan of Indebtedness.**

In order to determine the prima facie rates required by Insurance Code §779.36, the Commissioner must identify the coverages and exclusions which form the basis for each prima facie rate. Existing law does not contain benchmark coverages and exclusions for credit property insurance or credit unemployment insurance. This section sets forth benchmark coverages and exclusions for dual interest credit property insurance on an open end plan of indebtedness, a form of credit property insurance sold in California.

The benchmark provisions form the basis for a prima facie rate for these coverages and exclusions.

**Section 2670.13. Benchmark Number Two: Provisions for Dual Interest Credit Property Insurance on a Closed End Plan of Indebtedness.**

In order to determine the prima facie rates required by Insurance Code §779.36, the Commissioner must identify the coverages and exclusions which form the basis for each prima facie rate. Existing law does not contain benchmark coverages and exclusions for credit property insurance or credit unemployment insurance. This section sets forth benchmark coverages and exclusions for dual interest credit property insurance on a closed end plan of indebtedness, a form of credit property insurance sold in California. The benchmark provisions form the basis for a prima facie rate for these coverages and exclusions.

**Section 2670.14. Benchmark Number Three: Provisions for Dual Interest Credit Property Insurance on a Closed End Loan Secured by Personal Property.**

In order to determine the prima facie rates required by Insurance Code §779.36, the Commissioner must identify the coverages and exclusions which form the basis for each prima facie rate. Existing law does not contain benchmark coverages and exclusions for credit property insurance or credit unemployment insurance. This section sets forth benchmark coverages and exclusions for dual interest credit property insurance on a closed end loan secured by personal property, a form of credit property insurance sold in California. The benchmark provisions form the basis for a prima facie rate for these coverages and exclusions.

**Article 5. Benchmark Provisions for Credit Unemployment Insurance.**

**Section 2670.17. Benchmark Number Six: Provisions for 30-Day Retroactive Credit Unemployment Insurance on an Open End Plan of Indebtedness, and Paying Minimum Monthly Payment.**

In order to determine the prima facie rates required by Insurance Code §779.36, the Commissioner must identify the coverages and exclusions which form the basis for each prima facie rate. Existing law does not contain benchmark coverages and exclusions for credit property insurance or credit unemployment insurance. This section sets forth benchmark coverages and exclusions for 30-day retroactive credit unemployment insurance on an open end plan of indebtedness, and paying the minimum monthly payment, a form of credit unemployment insurance sold in California. The benchmark provisions form the basis for a prima facie rate for these coverages and exclusions.

**Section 2670.18. Benchmark Number Seven: Provisions for 30-Day Non-Retroactive Credit Unemployment Insurance on an Open End Plan of Indebtedness, and Paying Minimum Monthly Payment for Six Months.**

In order to determine the prima facie rates required by Insurance Code §779.36, the Commissioner must identify the coverages and exclusions which form the basis for each prima facie rate. Existing law does not contain benchmark coverages and exclusions for credit property insurance or credit unemployment insurance. This section sets forth benchmark coverages and exclusions for 30-day non-retroactive credit unemployment insurance on an open end plan of indebtedness, and paying the minimum monthly payment for six months, a form of credit unemployment insurance sold in California. The benchmark provisions form the basis for a prima facie rate for these coverages and exclusions.

**Section 2670.19. Benchmark Number Eight: Provisions for 30-Day Retroactive Credit Unemployment Insurance on an Installment Loan Plan of Indebtedness, Paying Monthly Payment on Installment Loan Up to Twelve Monthly Payments.**

In order to determine the prima facie rates required by Insurance Code §779.36, the Commissioner must identify the coverages and exclusions which form the basis for each prima facie rate. Existing law does not contain benchmark coverages and exclusions for credit property insurance or credit unemployment insurance. This section sets forth benchmark coverages and exclusions for 30-day retroactive credit unemployment insurance on an installment loan plan of indebtedness, and paying the monthly payment on the installment loan up to twelve monthly payments, a form of credit unemployment insurance sold in California. The benchmark provisions form the basis for a prima facie rate for these coverages and exclusions.

**Section 2670. 20. Benchmark Number Nine: Provisions for 30-Day Non-Retroactive Credit Unemployment Insurance on an Open End Plan of Indebtedness, and Paying Outstanding Balance Up to Policy Limit.**

In order to determine the prima facie rates required by Insurance Code §779.36, the Commissioner must identify the coverages and exclusions which form the basis for each prima facie rate. Existing law does not contain benchmark coverages and exclusions for credit property insurance or credit unemployment insurance. This section sets forth benchmark coverages and exclusions for 30-day non-retroactive credit unemployment insurance on an open end plan of indebtedness, and paying the outstanding balance up to the policy limit, a form of credit unemployment insurance sold in California. The benchmark provisions form the basis for a prima facie rate for these coverages and exclusions.

## **Article 6. Reporting Requirements.**

### **Section 2670.20. Annual Experience Reports.**

Insurance Code §779.36 requires that the Commissioner specify prima facie rates for credit property insurance and credit unemployment insurance. Section 779.36(a) and §779.36(c) state that the prima facie rates “shall be based upon loss experience filed with the commissioner, aggregated by class.” Section 779.36(e) provides that the Commissioner shall make insurers’ actual annual loss ratios for credit property insurance and credit unemployment insurance available to the public on an annual basis. Section 2670.21 of the proposed regulations requires insurers subject to the regulations to file annual reports of their credit property insurance and credit unemployment insurance experience statistics with the Commissioner. The section tells insurers where to file the reports, and instructs insurers on the manner in which the experience statistics shall be reported and filed. The section further requires insurers to maintain experience data on an annual basis for at least five (5) years.

### **Section 2670.22. Reporting Forms.**

As stated above, existing law requires insurers to file annual reports of their credit property insurance and credit unemployment insurance experience statistics with the Commissioner. This section provides an address at the Department of Insurance where reporting forms may be obtained.

## **Article 7. Effective Date and Severability.**

### **Section 2670.23. Effective Date.**

Existing law does not state the date on which the proposed regulations will become effective, and does not establish deadlines by which insurers must make the rate filings required by the regulations. Existing law does not specify the standards by which these rate filings will be reviewed. This section establishes an effective date for the regulations as well as a deadline for insurers to make new rate filings. The section sets forth the standards by which the rate applications will be reviewed.

### **Section 2670.24. Severability.**

Existing law does not address severability of the regulations if any provision is held invalid. This section provides that if any provision is held invalid the rest of the regulations shall not be affected.

## **PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS**

A pre-notice workshop, pursuant to Government Code Section 11346.45, is not required to implement the proposed regulation, because the issue addressed is not so complex that it cannot easily be reviewed during the comment period. Notwithstanding the lack of

complexity of the issue, prior to publishing public notice, the California Department of Insurance mailed provided notice pursuant to CIC §12921.7 to all persons who previously requested mailed notice of proposed regulatory action. The California Department of Insurance utilized the comments provided pursuant to the notice formulation of the proposed regulation.

**MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS OR COSTS WHICH MUST BE REIMBURSED PURSUANT TO GOVERNMENT CODE SECTION 17500 THROUGH 17630**

The proposed regulation does not impose any mandate on local agencies or school districts for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement. There are no costs to local agencies or school districts from the proposed regulations, and the proposed regulation will not affect funding to the State.

**COST OR SAVINGS TO STATE AGENCIES**

The Commissioner has determined that there will be no direct cost or savings to, nor will there be any new program mandates on, any state agency, local agency or school district from the proposal, and that the proposal will not affect federal funding to the state.

**OTHER NON DISCRETIONARY COST OR SAVINGS IMPOSED UPON LOCAL AGENCIES**

None

**COST OR SAVINGS IN FEDERAL FUNDING TO THE STATE**

None

**COMPARABLE FEDERAL STATUTES OR REGULATIONS**

None

**COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESS**

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS INCLUDING THE ABILITY OF CALIFORNIA BUSINESSES TO COMPLETE WITH BUSINESSES IN OTHER STATES**

The Department has calculated the economic impact of the proposed regulations by calculating the effect of the regulations on premium written in California in 1999, the

most recent year for which annual data is available. In 1999 credit property insurers wrote approximately \$70 million of premium in California. The Department estimates that the regulations will decrease the amount of the premium written by these insurers by approximately 75%, or \$52,500,000. This would reduce the total credit property insurance premium written in California to approximately \$17,500,000 per year. The Department expects the regulations will have a similar effect on credit unemployment insurance premium written in California. In 1999 credit unemployment insurers wrote approximately \$180 million of premium in California. The Department estimates that the regulations will decrease the amount of the premium written by these insurers by approximately 75%, or \$135,000,000. This will reduce the total credit unemployment insurance premium written in California to approximately \$45,000,000 per year.

The premium reductions will affect insurers and other businesses in the chain of distribution such as lenders and retailers selling goods on credit. These businesses will incur one-time costs associated with complying with the new rates. These costs will vary widely based upon the type of business and distribution system involved and cannot be readily estimated. For example, insurers will have to make new rate filings in order to comply with Insurance Code §779.36. However, since these insurers are already subject to the rate approval requirements of Proposition 103 (Insurance Code §§1861.01 et seq.) they have made rate filings in the past and they can make the rate filings required by the regulations without unusual expense or disruption. Businesses receiving commissions, acquisition costs, or other similar expenses from insurers will likely receive reduced compensation.

The proposed regulations will take approximately \$187,500,000 annually from the pockets of lenders and retailers (in the form of compensation) and the credit insurance industry. It will put that \$187,500,000 directly into the pockets of consumers to spend on additional goods and services as they choose. One can only speculate as to the effect of this shift on the aggregate creation or elimination of jobs within the state of California, the creation of new businesses or the elimination of existing businesses in the State, or the expansion of businesses currently doing business within California. However, to the extent this transfer will have any overall effect on the huge California economy, the effect will probably be salutary.

The proposal will not have an adverse impact on the ability of California businesses to compete with businesses in other states. All insurers selling credit property insurance and credit unemployment insurance in California will be subject to the requirements of the proposed regulations, regardless of whether they are California companies or out-of-state companies. The largest writer of credit property and credit unemployment insurance in California is a Florida company, not a California company. Moreover, to the extent the regulations provide consumers with annual savings of approximately \$187,500,000, the regulations may increase competitiveness within the state because this money will be returned in some fashion to the California economy.

The changes wrought by the regulations will take place as a result of the restrictions on premium imposed by Insurance Code §779.36, not the regulations themselves, which

merely implement the terms of the statute. Given these facts, the Department has determined that the regulations themselves will not have a significant statewide adverse economic impact on business, including the ability of California businesses to compete with businesses in other states.

## **IMPACT ON SMALL BUSINESS**

Insurers are not “small businesses” under Govt. Code Sec. 11342(h), the statute which requires the Commissioner to evaluate the effect of regulatory proposals on “small business.” However, “small businesses” may comprise some part of the distribution chain of credit property insurance and credit unemployment insurance, either as “creditors” (usually, small retailers) or as insurance producers. The Department believes that most businesses affected by the regulations are excluded from the definition of “small business” under Government Code §11342(h)(2). However, to the extent some “small businesses” may be affected by the proposed regulations, these businesses receive compensation for their credit insurance activities, and may well receive reduced compensation as a result of the rate reductions mandated by the proposed regulations. The Department is unaware of any existing data on the aggregate credit insurance compensation paid to “small businesses” in California. To the extent any “small businesses” are affected by the regulations, this will be a result of the rate restrictions imposed by Insurance Code §779.36, not the regulations themselves, which merely implement the terms of the statute

## **EFFECT ON JOBS IN CALIFORNIA**

The overall cost impact on the California public is set forth above. Credit property and credit unemployment insurance coverage is sold to consumers, so the cost impact based solely on the reduction of rates would be passed on directly to members of the California credit insurance buying public as savings in their cost of credit insurance.

The cost impact on businesses directly affected by the proposed regulations is set forth above. Business entities which must comply with the proposed regulations will incur one-time costs associated with the rate filings they will have to make in order to comply with Insurance Code §779.36. Since these insurers are already subject to the rate approval requirements of Proposition 103 (Insurance Code §1861.01 et seq.) they have made rate filings in the past and can make the rate filings required by the regulations without unusual expense or disruption. Other one-time costs associated with complying with the regulations would vary widely based upon the types of business and distribution systems involved and cannot be readily estimated.

To the extent that the proposal has a cost impact on private persons or businesses directly affected, that cost impact is a result of the Insurance Code section being implemented, interpreted, and made specific by the proposed action.

## **IMPACT ON HOUSING COSTS**

The proposed regulations will not affect housing costs.

## **CONSIDERATION OF ALTERNATIVES**

Pursuant to Government Code Section 11346.5(a)(13), the Commissioner must determine that no reasonable alternative considered by the Commissioner, or that has otherwise been identified and brought to the attention of the Commissioner, would be more effective in carrying out the purpose for the proposed regulations, and that no alternative would be as effective or less burdensome to private persons or businesses directly affected than these regulations. The purpose of the proposed regulation is to implement a statutory mandate. To date, no reasonable alternative to the proposed regulations is apparent. The Commissioner, however, invites public comment on alternatives to the regulations.

## **AVAILABILITY OF TEXT OF THE RULEMAKING FILE**

The Insurance Commissioner has prepared an initial statement that sets forth the reasons for the proposed action. The Insurance Commissioner also has available all the information upon which this proposed action is based, and the express terms of the proposed action.

The file for this proceeding, which includes a copy of the proposed regulations, the statement of reasons, the information upon which the proposed action is based, and any supplemental information contained in the rulemaking file, is available for inspection and copying **by prior appointment** at 45 Fremont Street, 21<sup>st</sup> Floor, San Francisco, California, 94105, between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday. Written requests for the rulemaking file or questions regarding this proceeding should be directed to the contact persons listed above.

## **FINAL STATEMENT OF REASONS**

Upon written or e-mail request, the final statement of reasons will be made available for inspection and copying once it has been prepared. Written requests for the final statement of reasons should be directed to the contact person listed above.

## **AUTOMATIC MAILING**

A copy of this Notice, the Informative Digest, the Initial Statement of Reasons and the proposed regulations will be sent to each person on the Insurance Department's mailing list.

## **WEB ACCESS**

A copy of this Notice, the Initial Statement of Reasons, and the Text of the proposed regulations can be obtained on the Department's Web site at [www.insurance.ca.gov](http://www.insurance.ca.gov). Near the top of the page, you will see the major heading "Protecting Consumers." In this section, scroll down until you see the subheading "BE INFORMED." Click on the nearby "Search for Proposed Regulations" link. When the search field appears, enter "RH 386" (the Department's regulation file number for these regulations). Alternatively, search for the California Insurance Code Section that the regulations implement (for instance, "1861.02(c)"), or search by the key word (credit insurance for example.). Then click on the "Submit" button to display links to the various filing documents. For those without Web access, contact Donald Hilla at the address and FAX above, or by telephone at (415) 538-4108.

## **AVAILABILITY OF CHANGED OR MODIFIED LANGUAGE**

If the Department amends the proposed regulations with changes that are sufficiently related to the original text, the Department will make the full text of the amended regulations, with the changes clearly indicated, available to the public for at least 15 days before the date the Department adopts the amended regulations.

HARRY W. LOW  
Insurance Commissioner

Dated:

By: /s/  
Donald Hilla  
Senior Staff Counsel